UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1252
10 March 1998

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1252nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 5 March 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

later: Mr. YUTZIS

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GE.98-15467 (E)

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Tenth to thirteenth periodic reports of the Netherlands (CERD/C/319/Add.2)

1. At the invitation of the Chairman, Mr. Halff, Mr. Tilmans, Mr. van Bonzel, Mrs. Peterson, Mrs. Kessels, Mrs. de Bode-Olton, Mr. Jacobs and Mrs. Goris (Netherlands) took places at the Committee table.

2. Mr. HALFF (Netherlands) apologized for the delay in submitting periodic reports which in no way detracted from the importance that his Government attached to the Convention and its reporting obligations. The Government did, however, support efforts to streamline reporting obligations under the various human rights instruments.

3. The constitutional structure of the Kingdom of the Netherlands dated back to 1954 when it had been decided by the Netherlands, Suriname and the Netherlands Antilles, which then included Aruba, to establish a new constitutional order under which they would conduct their internal affairs autonomously and in their common interests on a basis of equality. Since then, Suriname had decided to leave the Kingdom to become a State in its own right and Aruba had become a separate country within the Kingdom, with the same constitutional status as the other two countries. Although it was the responsibility of the Kingdom as a whole to guarantee human rights and fundamental freedoms, and the Kingdom as a whole was party to international treaties, it was the responsibility of each of the countries to implement those rights.

4. The Government of the Netherlands was deeply committed to the object and purpose of the Convention. Under the Netherlands presidency of the European Union, and on the initiative of the Government of the Netherlands, the European Union had designated 1997 as the European Year against Racism. A decision had been taken to establish the European Monitoring Centre for Racism and Xenophobia.

5. The elimination of racial discrimination had become an increasingly important political goal in the Netherlands with the gradual appearance of what had come to be termed its "multicultural society". As far as relevant legislation and case law were concerned, the body of laws and court verdicts had steadily grown during the reporting period. In the Netherlands, as in most democracies, there was an inherent tension between the prohibition of racial propaganda and freedom of speech. Political parties that had racially discriminatory programmes were actually prosecuted and prohibited only in extreme cases. In that context he was pleased to inform the Committee that parties with that kind of agenda had been annihilated during the municipal elections on 4 March 1998. Public prosecutors were under instructions to commence criminal proceedings whenever cases of racist utterances occurred.

6. Incentive policies in the socio-economic field during the reporting period showed a mixed picture. The equal economic status of minorities was a long-term perspective, partly because affirmative action could only be used to

a certain extent because of its limited acceptance by the population at large. Many measures had been taken during the reporting period in the field of education, integration and access to the labour market with a view to enhancing the opportunities for and status of minorities in Netherlands society as a whole. The policies worked to a certain extent, but concerns remained, in particular with regard to the socio-economic position of ethnic minorities.

7. The report also described a range of programmes aimed at combating perceptions conducive to racially discriminatory behaviour. He commended the two "shadow reports" that had been drafted by two non-governmental organizations (NGOs) in the Netherlands whose thorough scrutiny of the report of the Government would be of use to the Committee and the authorities themselves.

8. Mrs. de BODE-OLTON (Netherlands), introducing the part of the periodic report of the Netherlands concerning the Netherlands Antilles, referred to the current large-scale movements of migrant labour, characterized by new forms of and increasing ethnic diversity and associated with the transformations in economic, social and political structures in the post-cold war era. Migration had been a very important factor throughout the demographic history of the islands, particularly during the second half of the 1980s.

9. That the Netherlands Antilles had had no specific policy on minorities was based on a tradition that over 40 nationalities lived together in harmony, with a very acceptable level of tolerance. Nor was it felt that an explicit population policy should be given high priority. Therefore, only basic demographic characteristics had been incorporated into national planning processes.

10. Extra regional migration had been dominant in the Caribbean in the latter half of the twentieth century, but simultaneously, a minor but significant intra-regional movement had developed and was continuing. Given the small size and small population of the islands of the Netherlands Antilles, and their vulnerability to external economic forces, migration had had a unique impact on the community as a whole. In the case of St. Martin, the size of the foreign population group had grown faster than the so-called "belongers" group. In 1992, over half of the population living there had not been born in the Antilles. The influx of workers tended to be related to the tourist industry, and fulfilled a need, in terms of planned economic growth, that could not be met by the domestic labour force. In some cases, the growth in the population had overwhelmed certain aspects of planned services and infrastructure. That explained the focus in the report on the islands of St. Martin and Curaçao.

11. She apologized for some statistical inconsistences in the report. Two sets of definitions had been applied to the presentation of statistical data. In some paragraphs and tables in the report, the concepts of Dutch nationals and Aliens had been applied, based on the criterion of nationality, while elsewhere, the concepts of migrants and non-migrants had been applied, based on the criteria of birth and place. In the Netherlands Antilles, the concept

of nationality roughly corresponded to place of birth. To avoid confusion, the delegation would refer to migrants and nationals during consideration of the report.

12. Mrs. PETERSON (Netherlands), introducing the Aruban part of the report of the Kingdom of the Netherlands, said that in order adequately to comply with reporting obligations under international human rights instruments, the Government of Aruba had appointed a Human Rights Committee in 1991. The Aruban report was a product of that interdisciplinary committee.

13. The complex nature of recent migration, the direct result of economic expansion, had somewhat overwhelmed local policy-makers at the outset, a problem compounded by a lack of a systematic and coordinated compilation of relevant data. Since the drafting of the report in 1995, a number of studies and surveys had been finalized to provide policy-makers with an informed analysis. They included studies on the social impact of labour migration since 1986 and the position of foreigners on the labour market. A 1996 report drawn up by the Aruban Social Economic Council had focused on increasing pressure on the public sector, noticeably in the field of education, housing, and infrastructure. The report showed that approximately 88,000 people of 30 different nationalities, of whom approximately one-third were foreigners, resided in Aruba. Aruba had seen a population growth of more than 30 per cent in 5 years.

14. The Labour Force Survey 1994 had found that the overall unemployment rate for Aruba stood at 6.4 per cent. Among the unemployed, approximately two-thirds were Aruban and one-third was non-Aruban. There was a majority of migrants from the region who had migrated to Aruba for economic reasons and a substantial minority from the Netherlands and the United States of America. The first group generally had a low level of education and were found among elementary occupations, while the second group often occupied higher level positions within the community. A vocational training programme had been set up for adults in 1998. the Training for Employment Scheme (Enseñanza pa Empleo) was designed to promote access to employment. Over time, it had become the major adult education institution for immigrants with a limited level of education.

15. The influx of foreign workers led to a considerable housing shortage. The Government had set up a National Housing Plan (Plan Nacional di Vivienda) in 1995 under which approximately 5,800 people seeking housing had been registered, of whom 60 per cent had been born in Aruba and 40 per cent elsewhere. In San Nicolas, 45 per cent of all men and 55 per cent of all women had migrated to Aruba at some point in their lives. The 1996 report of the Social Economic Council had warned against the danger of the formation of ghettos as a result of the high concentration of migrants in certain areas.

16. Recent immigrants had a predominantly Latin background. Aruba schools and teachers were thus increasingly confronted with migrant children who spoke neither Papiamento nor Dutch, which was still the official language of instruction in schools. Department of Education studies on the link between the language spoken at home and school performance showed that the majority - non-Dutch-speaking students - were at a disadvantage. The phenomenon was commonly referred to in Aruba as "the language problem". Models had been

developed for language instruction in primary schools that better reflected the socio-linguistic reality of modern Aruba. The Department of Education ensured that any new educational material was not discriminatory with regard to any group of people. Since 1990, the teacher training college (IPA) had given special attention to training teachers for multicultural education, aspects of which were included in all components of curricula. Many schools placed particular emphasis on the theme of multiculturalism and respect for and tolerance of the rights of others. The governmental Human Rights Committee and NGOs were often asked to give presentations in workshops in schools. Upon their return to Aruba, the members of the delegation of Aruba would be meeting with students of a secondary school to discuss the Convention, the report and the Committee's recommendations.

17. Mr. DIACONU (Country Rapporteur) welcomed the composition of the delegation of the Netherlands, proof positive of the State party's willingness to enter into a dialogue with the Committee. The report of the Netherlands provided ample information pertaining to implementation of the Convention and gave the impression that sustained efforts were being made by both the State and civil society on legislative and administrative fronts. The report gave a picture of a mature society that took account of social developments and did all it could to pinpoint and foresee problems and find solutions to them. Successive Governments had ensured the continuity of efforts to eliminate racial discrimination, which had a positive impact on implementation of the Convention. The concept of a multicultural society and its consequence, intercultural education, reflected a constructive long-term approach conducive to respect for cultural identity. Measures to ensure proportional participation of ethnic groups on employment, the army and the police testified to a willingness to take special measures to ensure the advancement of certain ethnic or racial groups, in accordance with the provisions of article 2, paragraph 2 of the Convention. It was also gratifying that the State concentrated activities to ensure equal rights and create conditions conducive to the elimination of discrimination at the local level, that associations of minorities were involved in formulating and implementing many programmes targeted at them and that civil society as a whole was actively involved. The level of involvement could be seen from the many codes of conduct and arrangements with employers, schools or other institutions to promote a policy for minorities or encourage tolerance. He asked whether the codes of conduct and arrangements that were not legally binding were having the desired effect and, if not, whether the State itself then took the necessary measures to rectify the situation.

18. The table in paragraph 113 of the report did not provide data on the population as a whole, according to ethnic origin. Clarification was needed of the term "immigrant", which could lead to confusion, whether it related to people who did not have Netherlands citizenship and whether it included people who had obtained Netherlands citizenship but belonged to different ethnic groups or were of a different national origin.

19. Likewise, the thirteenth report made no mention of the Frisian minority in the Netherlands, although it numbered some 400,000 persons and had some degree of linguistic and cultural autonomy.

20. The report, was more than seven years overdue. Many paragraphs seemed to have been drafted in 1992 or 1993. For example, paragraph 72 presented the results of the 1990 local government elections, although there had certainly been other local elections in the Netherlands since that date.

21. The concentration of a large part of the country's minorities in four large cities inevitably had an impact on urban policy concerning employment, education, security and social services, but also in the fight against racial discrimination. The thirteenth report also gave an account of policies regarding immigration, reception and integration, newcomers and women from minority groups. Those policies would be judged by their results, especially as concerned compliance with article 5 of the Convention.

22. As to legislative provisions, the Constitution and the Criminal Code referred solely to the prohibition of racial discrimination, but the term "race" had been interpreted broadly and also included ethnic origin. The 1994 Equal Treatment Act, which strangely enough had not been mentioned in the thirteenth report, employed the term "nationality", which appeared after "religion", "political opinion", "race" and "sex". Given the logic of that enumeration, he was tempted to interpret "nationality" as meaning "national origin", and not "citizenship". He sought clarification as to what was meant by nationality in that context.

23. He also asked for further information on the drafting of paragraphs 4 and 5 (b) of section 2 of the General Rules providing protection against discrimination (Equal Treatment Act). The English translation implied that racial discrimination was not prohibited when a person's racial appearance was a determining factor; yet it was precisely in such cases that it should be. In a letter to Mr. Banton, the Netherlands Ministry of Internal Affairs had explained that exceptions were permitted under the Equal Treatment Act for cases in which an actor or singer of colour was needed. He did not see why such an exception was made, because it made the text less clear. He welcomed the fact that the legislation was to a large extent based on the commentary of the Human Rights Committee concerning non-discrimination.

24. As to article 3 of the Convention, the report referred solely to the condemnation of apartheid and the Netherlands policy in that regard, whereas article 3 also condemned racial segregation and called upon States to prevent, prohibit and eradicate all practices of that nature in their territories.

25. Paragraphs 196 and 197 of the thirteenth report noted the emergence of all-black and all-white schools. The report distributed by the Netherlands National Bureau against Racism likewise touched upon segregation in schools, above all in urban neighbourhoods, as the result of housing discrimination and the desire of certain Dutch parents to send their children to more distant "white" schools. A way must be found to stop and reverse that trend, which was not unique to the Netherlands, so as to forestall the creation of ghettos.

26. Concerning the implementation of article 4, he noted that the anti-discrimination guidelines for the police and the Public Prosecutions Department were based on the principle that all violations of the anti-discrimination provisions were subject to criminal prosecution and that the use of a political party as a forum to disseminate racist propaganda did

not shield it from prosecution. In a number of cases, however, NGOs had argued that the police should play a more active role and be more alert to cases of racial discrimination and that the Public Prosecution's Department should institute prosecution without delay and reach conclusions more rapidly. The November 1997 Den Bosch case had been cited, which apparently had been similar to the one considered by the Committee in March 1993 in the framework of the procedure under article 14, also involving the Netherlands; in the Den Bosch case, residents of a Utrecht neighbourhood, in an initiative organized by supporters of a right-wing extremist group, had prevented a Somalian family from occupying a flat that had been allocated to it inexplicably, the prosecutor had decided that criminal proceedings should not be instituted. In the 1993 case, the Committee had recommended that the Netherlands Government should "take diligent action". It was incomprehensible that the prosecutor should have dropped the case. Also, in summer 1996, a family from Suriname had been intimidated and forced by violence to leave a flat in Utrecht. The prosecutor had procrastinated before instituting criminal proceedings, which were still pending.

27. The Netherlands National Bureau against Racism was also of the opinion that the Government should take action to disband the Democratic Centre Party, which openly engaged in racist activities and displayed Nazi symbols and whose utterances were disseminated in the media. In December 1997, the Minister of Justice had apparently announced that the disbanding procedure had begun. The above cases were of direct relevance to the implementation of article 4 of the Convention.

28. The reports of a number of NGOs indicated that complaints of acts of discrimination were on the rise and that, for example, there had been 700 in Amsterdam in 1997, 84 more than in 1996. According to other reports, the number of violent racist incidents annually had increased from 250 to 1,000 over the previous five years. The situation was therefore alarming; the Committee asked the Netherlands delegation to comment.

29. As to article 5 of the Convention, there had been reports of a bill to make it mandatory for newcomers in the Netherlands to attend an integration programme and that citizens from the European Union, the European Economic Area, the United States and Poland were exempt, whereas persons from Aruba and the Netherlands Antilles were not. That constituted not only unequal treatment of foreigners depending on their country of origin but discrimination against citizens of the Netherlands from Aruba and the Netherlands Antilles. He asked the Netherlands delegation for clarification on that point.

30. A number of NGOs had expressed concern that new legislation authorizing identity controls was being used in a discriminatory fashion.

31. As in other countries, unemployment was a major problem in the Netherlands. Acknowledging that the unemployment rate among minority groups had increased by as much as 40 per cent and was now four times the national average, whereas it had long remained stable for the rest of the population, the report stated that the Netherlands Government had instituted programmes to ensure that minorities were hired in keeping with their proportion of the overall population. According to a number of NGOs, however, those programmes

had not been very effective. Affirmative action to help integrate ethnic minorities into the armed forces had not been successful, and persons from minority groups hired by the police often did not hold their jobs for long. The report openly recognized that discrimination, whether deliberate or not, continued to be a factor in the high unemployment rate among minorities. A 1997 report on the Netherlands by the International Labour Organization (ILO) had come to the conclusion that persons from minority groups were employed in lower-paying jobs and were more exposed to dismissal, even when they had the same qualifications as others. Discriminatory hiring practices persisted. Could the Netherlands delegation inform the Committee of the results of its past programmes and the measures which the Government intended to take in the future in that area?

32. What were the initial results of the implementation of the 1994 law requiring businesses employing more than 35 persons to draw up an annual report of the number of members of minorities on their staff? He referred the Netherlands delegation to the 1995 ILO report, which discussed discriminatory hiring practices against immigrant workers and ethnic minorities in the Netherlands.

33. The Committee noted with interest the measures taken to recruit minorities in the fields of health care, social security and child care.

34. Discriminatory housing practices reputedly also persisted. Could the Netherlands delegation provide information on the outcome of policies applied to date and what action the Government planned to take in the future to prevent discrimination in that area?

35. He was surprised to read that the 1968 Caravan Act, which was clearly discriminatory against itinerants, had still been in force in 1996. Had the act been withdrawn with effect from 1 January 1997, as indicated in paragraph 131 of the report? How many itinerants were there in the Netherlands, and what was their status?

36. The report noted that there was a perceptible gap between the health of members of minorities and the rest of the population. He stressed that consideration should be given to granting access to health care services to illegal immigrants, especially women and children.

37. Concerning education, the report did not provide much information on the literacy level of various population groups. Had the necessary framework been created so that Turkish and Arabic could be taken as examination subjects? Were classes held in those languages? Were textbooks available? Who taught those classes? Regarding higher education, what were the results of the measures referred to in paragraph 172 to ensure greater access by minority students? He noted with interest the efforts to prepare minority children for education with the involvement of their parents (paragraph 178).

38. In respect of article 6 of the Convention, the report stated that victims of discrimination could apply to the civil courts for compensation. Had there been any such cases, and how had they been decided? The Committee had expected information on the Equal Treatment Commission created in 1994 by the Equal Treatment Act, because that body could play a vital role in

combating discrimination. The Commission had already received more than 300 complaints between 1994 and 1995, of which 185 had been judged admissible and 25 related to racial discrimination. The powers of the Commission appeared to be limited to the area of private law, and it could only receive complaints on the basis of the 1994 Act. Should not its powers be extended to all cases of unequal treatment and racial discrimination?

39. The Netherlands authorities had a highly developed programme to alert the population to the issue of discrimination. He had noted with interest the measures taken by the authorities in response to racist and discriminatory utterances on the Internet. A complaints department had been created in 1997. A number of complaints had been received, and the broadcasts in question had been removed. A plan of action entitled "more colour in the media" had been launched; perhaps it would be useful to start another initiative on "less racism in the media".

40. Turning to the part of the report on Aruba, he asked the Netherlands delegation to comment on the statement in paragraph 223 that in view of the large number of nationalities resident in Aruba, minorities as such did not exist. It was not clear which nationalities were meant in table 7, which merely listed countries. As he understood it, more than half the population was of Indian origin. He sought clarification on that subject.

41. Legislation in Aruba prohibiting and punishing racial discrimination was clearer and more specific than in the Netherlands itself. As to regulations on entry and expulsion, given the island's small size, restrictions were understandable, but it was not evident why they should only apply to nationals from the Dominican Republic and Haiti. Was that not discriminatory? Nor was it understandable why persons working as domestics should not be allowed to change employment and could even be expelled.

42. Regarding education, he asked why Papiamento, which was spoken at home by 77 per cent of the population, was used only in the first two years of school. Given the importance of Papiamento, why was Dutch the official language? Should not bilingual education be introduced?

43. Turning to the Netherlands Antilles, problems were posed above all by the growing presence of migrants. For example, on St. Martin, the second biggest of the island group, there were more foreigners than nationals of the Netherlands. Unfortunately, the statistics provided contained no information on race or ethnic origin, but only on nationality. That was not helpful for assessing implementation of the Convention. The migrants constituted the majority of the working population but were less well paid than others. Further questions arose in connection with the right to education of the new illegal migrants and their children, since they did not speak Dutch and facilities were lacking. In general, their illiteracy rate was higher.

44. Paragraph 357 referred to judgements in cases concerning the treatment of foreign live-in domestic personnel. In a number of decisions, courts in Aruba and the Netherlands Antilles had ordered the authorities not to expel such persons when they had asked to change employers or had been living in the country and had applied for a work permit. He cited in that regard the cases of Ms. Wongsosemito in Aruba and Ms. Leonor Mero Barreto, Ms. Jinandunding,

Ms. Minerva Garcia Inesia and Ms. Asha Rodrigues in the Netherlands Antilles. Ms. Jinandunding had even been paid compensation by the authorities for the period during which she had been denied the right to return to the Netherlands Antilles following her expulsion. That was an encouraging development. How did those examples compare in number with applications in similar cases which had been rejected?

45. Mr. BANTON said that, although the Netherlands report had been submitted in March 1997, he had not received a copy until February 1998 because of the time taken to translate such an inordinately long periodic report into the other working languages. A great deal of the material on Aruba and the Netherlands Antilles belonged more appropriately in the core document and the tables could have been attached as appendices, which were not translated. He had suggested at the recent meeting of chairpersons of human rights treaty bodies that any State party submitting a periodic report of more than 30 pages should be required to assume responsibility for translation into the working languages, a very costly operation. That proposal had been rejected but it had drawn attention to the need for a balanced approach to assessment of the different items of expenditure involved in monitoring the implementation of the Convention. When the Committee had proposed the previous year to hold an occasional session in New York for the convenience of States parties which had no diplomatic mission in Geneva, the Netherlands delegation had opposed the idea on the grounds that it would increase the cost of the session.

46. Referring to section 5 of the Equal Treatment Act, he expressed misgivings about the use of the adjective "sole" in the exceptions listed under subsection 2 (a) and (b). The wording "on the sole grounds of" various types of discrimination lent itself to a restrictive interpretation since unequal treatment often occurred on both permissible and prohibited grounds and might be justified by the discriminating party on the former grounds.

47. The section of the report on article 3 overlooked the Committee's General Recommendation XIX. Paragraphs 127 to 129 could have been included in the section and the existence of black and white schools in the Netherlands could also have been reported under that heading.

48. The material from NGOs expressed serious concern regarding the implementation of article 4. He trusted that the State party would respond fully to those concerns in its fourteenth report, which was due in January 1999.

49. With regard to article 5 (b), the Dutch section of the International Commission of Jurists (ICJ) reported that racial attacks had increased fourfold in recent years to over 1,000 cases per year, a figure that should have been provided by the State party. Although many European governments collected data on racial attacks, approaches differed and the results were not strictly comparable. The two countries with the best statistics were Sweden and the United Kingdom and the figures they provided were significantly higher than those for the Netherlands.

50. Economists drew a distinction between complementary and substitutable immigrant labour, competition with native labour occurring only in the latter case. Much immigration had initially involved complementary labour but

countries pursuing integration and equal opportunity policies tended to facilitate the employment of immigrants in jobs that fell into the substitutable category. The resultant increase in resentment among native jobseekers might be expected to lead to an increase in the incidence of attacks: hence the need for a concurrent strengthening of anti-racist policies.

51. He asked the delegation to comment to the reference in the report of the Dutch section of ICJ to the return of Iranian asylum-seekers.

52. With regard to article 5 (e), he welcomed the information in paragraph 118 of the report about ethnic monitoring in the employment market, a difficult and challenging practice that aroused strong feelings in many industrialized countries. He wished to hear more about the Dutch experience in that area.

53. The report of the National Bureau against Racism (LBR), a Dutch NGO, referred to the number of immigrants who left their jobs "out of pure misery", owing to racial harassment he surmised. In the United Kingdom racial harassment in the workplace could constitute grounds for dismissal and a civil remedy had been provided for such cases. An employer was obliged to protect employees against harassment and could be heavily fined for failing to do so. Were such remedies available in the Netherlands and, if so, how frequently were they used?

54. According to a study by the International Labour Organization referred to in the LBR report, Moroccan job applicants, even when highly educated and fluent in Dutch, received considerably less favourable treatment than their Dutch counterparts in one third of all cases. Publicity for such findings would help to convince the public that additional action to protect immigrants was necessary.

55. He would welcome statistics on health care and comparative standardized figures for mortality rates.

56. With regard to article 6, he wished to know how effective existing measures had proved and whether the use of available remedies was proportionate to the incidence of racial discrimination.

57. He wondered why the report failed to mention that some 60 Muslim schools existed in the Netherlands and were operating very successfully. He suggested that the terms "intercultural" or even "transcultural" were preferable to "multicultural" in the field of education because cultures were constantly changing and educational measures should not be conducive to cultural stasis.

58. Mr. YUTZIS said he was surprised that the Netherlands had taken so long to submit its latest report. It was to be commended, however, for its frank acknowledgement of existing problems in the area of racial discrimination.

59. He welcomed the statement by the Netherlands Advisory Council on Government Policy reported in paragraph 29 that unless a minorities policy was rooted in an overall policy designed to counter undesirable general trends in

society, it was doomed to address no more than the symptoms. The Council had also identified access to employment as an important form of integration. He would go even further and submit that employment was a key aspect of identity.

60. In paragraph 32, under the heading "Reception and integration policy: a new administrative philosophy", the report mentioned as a basic principle that individuals were responsible for their own actions in their own social environment and that the Government could not and should not be responsible for everything. Responsibility was to be shifted to the local authorities, who were "in immediate contact with the individuals concerned". He wondered whether the policy was aimed at decentralization or rather at deregulation, a fashionable idea in the new global market economy whose roots could be traced back to the era of economic laissez-faire. The aim was to expand the nation by shrinking the State but often the fate of the individual depended on the whims of the market. Who exactly were the individuals who were to be "responsible for their own actions"? He feared that individuals with greater purchasing power and motivated solely by self-interest would take most of the decisions in cases where the State had divested itself of its responsibilities. Minorities would naturally be placed at a disadvantage. He asked the delegation to clarify the principle involved.

61. According to paragraph 86 of the report, the Joint Industrial Labour Council had recognized in 1990 that 60,000 jobs must be created within five years. Had that target been reached? Paragraph 90 mentioned that the 1994 Act Governing the Promotion of Proportional Participation in the Employment Market for Immigrants required employers with more than 35 employees to draw up a plan of action indicating the targets they had set. What were the results of that initiative?

62. According to paragraph 114, the growing demand for better qualified staff did not favour immigrants who generally had a low level of education and, according to paragraph 170, only about 2 per cent of the total student population in higher education came from ethnic minorities. How did the State party propose to address that problem?

63. According to paragraph 126, home ownership among immigrants was very limited owing to their below-average income, another example of the vicious circle: incomes were low because higher-paid jobs called for specialized skills which were obtainable only through higher education.

64. He asked for more information about the withdrawal of the 1968 Caravan Act which, according to paragraph 130, had placed itinerants in an exceptional position and excluded the great majority of the Dutch population. What measures had the Netherlands Government taken against mass media which disseminated racial propaganda? How many public demonstrations of a racist nature had been broken up or prohibited? What action had been taken to prevent the dissemination of racist popular music?

65. Mr. GARVALOV said he had been somewhat confused by the abundance of terms used in the report with regard to minorities, including "aliens", "members of ethnic minorities", "ethnic minorities", "Turks and Moroccans" (who evidently were different from minorities), simple "minorities", "immigrants", "migrants", "legal immigrants" and, curiously enough, people

from countries of different ethnic origins from the Dutch population. Had the State party acceded to the Framework Convention for the Protection of National Minorities? If so, what was its interpretation of the term "national minority", which did not appear in the report?

66. He was even more confused by the headings under "Employment policies". Under "employment of ethnic minorities in government departments", paragraph 91 mentioned Turks and Moroccans. Were they considered ethnic minorities in the Netherlands? The next heading, regarding employment of minorities in the armed forces, used the simple term "minorities". What about religious or linguistic minorities? A reference to "aliens" appeared in paragraph 100, under the heading "Employment of minorities in government service", whereas according to paragraph 2 of the report, there was an essential difference between the terms "aliens" and "foreigners" and the term "ethnic minorities". Table 1 contained some very informative statistics, but again it singled out Turks and Moroccans. Clarification was needed.

67. Regarding integration, he appreciated the high standards of Dutch society. The fact that it was very easy for foreigners, or people from ethnically different communities, to move into such a society and emerge integrated might be very good for them as human beings, but was there not also a danger of assimilation and loss of ethnic diversity and identification? He asked for clarification of the frank admission in paragraphs 80 and 82 of what constituted integration into Dutch society.

68. Mr. VALENCIA RODRIGUEZ said the recent court decisions to punish individuals and organizations using racial slurs and other pejorative terms constituted important precedents, and the State party should continue to provide that type of information in its reports. He welcomed the principle that all legal residents of the Netherlands who were members of an ethnic minority were entitled to equal treatment. According to paragraph 9, it was the Government's will to have foreigners integrated into Dutch society. What was the scope of the integration process? Was it the same as assimilation? Did foreigners and ethnic minorities maintain their own religious, linguistic and cultural identity? The Government should increase its efforts on behalf of itinerants, especially with regard to housing, education, employment, welfare, health care and public order.

69. While the courts had not construed the mailing of a single consignment of discriminatory material as constituting public distribution (paragraph 18 (c)), the fact that such materials were printed implied the possible existence of organizations or individuals promoting racial hatred. Had any measures been taken against those possible sources of racial discrimination? He welcomed the court's decision that unsolicited mailing of leaflets and books containing utterances denying the Holocaust could not be construed as mere factual reporting and therefore involved an infraction of the Criminal Code (paragraph 20). What had been the result of the appeal filed in that case?

70. Paragraph 21 (a) described a Supreme Court decision quashing a conviction of discrimination because it involved a distinction made on grounds of nationality in the purely political sense, which was not automatically covered by the anti-discrimination provisions. What was meant by "nationality

in the purely political sense"? How did that differ from the provision in article 1 of the Convention prohibiting discrimination on the grounds of national origin?

71. A political party and its leader who had been convicted of making discriminatory utterances had been ordered to issue a retraction (paragraph 63). Under article 4 of the Convention, however, such actions required the dissolution of such organizations and the punishment of their members; it was not enough simply to have them retract their statements. He welcomed the measures adopted to promote the employment of ethnic minorities, whose unemployment rates were very high. Their housing situation also gave cause for concern.

72. He was concerned about the opinion polls showing an increasingly negative climate of opinion with regard to ethnic minorities. There was a need to intensify campaigns for understanding, tolerance and harmony among groups; such campaigns should touch on all possible fields, starting with the most important - education - and also including labour, housing, unions, culture, sports and churches. The media could play a major role in that regard, and the Committee should make a recommendation to that effect.

73. Mr. de GOUTTES said the report contained some gaps and some insufficient updates, for instance on the role of the Equal Treatment Commission and the 1994 Equal Treatment Act. The Commission appeared to play an important role in combating racism, receiving individual and group complaints and being empowered to investigate and to hold public hearings. Why did the report not say more about it? Why had the Commission not been involved in the preparation of the report; what measures had been taken to consult anti-racism NGOs, including the National Bureau against Racism and the Dutch section of the International Commission of Jurists?

74. Among the positive aspects to be stressed were the very innovative measures to combat discrimination in the private sector, which was most difficult to influence; the experience of the Joint Industrial Labour Council, which brought together both employers' and employees' organizations in combating racism; and the experience gained in consultations between the police and minorities. More information would be appreciated.

75. The measures taken to comply with the Committee's recommendations in its Communication No. 4/1991 regarding the L.K. case were also positive, as it was very rare for Governments to deal in their reports with follow-up to Committee opinions on communications. Paragraphs 3-8 contained very interesting information on judicial decisions, particularly by the Supreme Court, but more general statistics were needed on the number of complaints, prosecutions, convictions and especially reparations made to victims of racial discrimination. What were the police authorities, prosecutors and courts doing about racism cases? He would also like more information on measures taken against racist organizations and parties and on whether anti-racist NGOs could file class action suits.

76. Regarding the country's educational policy, the Committee had expressed concern in 1991 regarding the trend towards segregation in schools; at present

there was also a general trend against placing white children in schools with immigrants. Had any measures been taken to follow up on the Committee's previous observations?

77. The report spoke frankly of the increasingly negative climate of opinion towards ethnic minorities and of their high unemployment rate and under-representation in higher education. All of those alarming indicators were not unique to the Netherlands, but nonetheless deserved attention in the next report.

78. Mr. Yutzis took the Chair.

79. In reply to a question by Mr. HALFF (Netherlands), Mr. DIACONU said he had been unsure of the meaning of the terms "nationality" and "racial appearance" as used in the Equal Treatment Act, and not in the report.

The meeting rose at 5.55 p.m.